



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUN 5 2009

Michael R. Dezsi, Esq.
Fieger, Fieger, Kenney, Johnson & Giroux, P.C.
19390 West Ten Mile Road
Southfield, MI 48075-2463

RE: MUR 5818
Fieger, Fieger, Kenney, Johnson
& Giroux, P.C.
Geoffrey Nels Fieger
Vernon R. Johnson

Dear Mr. Dezsi:

Based on a *sua sponte* complaint filed with the Federal Election Commission on February 9, 2006, and information supplied by your clients, the Commission, on August 17, 2006, found that there was reason to believe your clients, Fieger, Fieger, Kenney, Johnson & Giroux, P.C., Geoffrey Nels Fieger, and Vernon R. Johnson, knowingly and willfully violated 2 U.S.C. §§ 441b and 441f, and instituted an investigation of this matter. In order to extend the period for responding to the Commission's findings until the conclusion of the criminal proceedings, your client tolled the applicable statute of limitations for a total of 564 days.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations have occurred.

The Commission may or may not approve the General Counsel's recommendations. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission briefs (ten copies if possible) stating your position on the issues and replying to the briefs of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's briefs and any briefs that you may submit will be considered by the Commission before proceeding to a vote on whether there is probable cause to believe a violation has occurred.

If you are unable to file responsive briefs within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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You may also request an oral hearing before the Commission. See Procedural Rules for Probable Cause Hearings, 72 Fed. Reg. 64,919 (Nov. 19, 2007). Hearings are voluntary, and no adverse inference will be drawn by the Commission based on a respondent's decision not to request such a hearing. Any request for a hearing must be submitted along with your reply brief and must state with specificity why the hearing is being requested and what issues the respondent expects to address. The Commission will notify you within 30 days of your request for a hearing as to whether or not the request has been granted.

Should you have any questions, please contact Phillip Olaya, the attorney assigned to this matter, at (202) 694-1571.

Sincerely,



Thomasenia P. Duncan
General Counsel

Enclosure

Brief – Fieger, Fieger, Kenney, Johnson & Giroux, P.C.
Geoffrey Nels Fieger
Vernon R. Johnson

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Fieger, Fieger, Kenney, Johnson and Giroux, P.C.)	MUR 5818
)	
Geoffrey Nels Fieger)	
)	
Vernon R. Johnson)	

GENERAL COUNSEL'S BRIEF

I. INTRODUCTION

In 2006, the Federal Election Commission ("the Commission") received a *sua sponte* submission from the Southfield, Michigan law firm of Fieger, Fieger, Kenney & Johnson, P.C. n/k/a Fieger, Fieger, Kenney, Johnson & Giroux, P.C. ("the Firm"), a professional corporation whose officers include Geoffrey Nels Fieger ("Fieger") as President and Vernon R. Johnson ("Johnson") as Secretary/Treasurer (referred to collectively, hereinafter, as "Respondents").

Respondents reported that the Department of Justice ("DOJ") was conducting a criminal investigation into whether the Firm and its members violated the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with alleged conduit contributions to John Edwards for President ("the Edwards Committee") during 2003-2004. Respondents argued that it was improper for a criminal investigation to go forward prior to the Commission conducting a civil investigation, finding probable cause to believe that there had been a knowing and willful violation of the Act, and referring the matter pursuant to 2 U.S.C. § 437g(a)(5)(C). Respondents requested that the

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1 Commission open an investigation

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3 On August 17, 2006, the Commission found reason to believe ("RTB") that the
4 Firm, Fieger, and Johnson had each knowingly and willfully violated 2 U.S.C. §§ 441b
5 and 441f by using corporate funds to reimburse an unknown number of contributions
6 made in the name of another to the Edwards Committee. See MUR 5818 Factual and
7 Legal Analyses ("F&LA"). The Commission also notified Respondents that a criminal
8 investigation could proceed without awaiting a probable cause finding or a referral.¹

9 Respondents asked to extend the time in which they could respond to the
10 Commission's findings until the conclusion of the criminal proceedings, so as not to risk
11 waiving their Fifth Amendment rights in connection with the DOJ criminal investigation.
12 The Commission granted an extension on the condition that Respondents toll the
13 applicable statute of limitations. Between October 2006 and April 2008, Respondents
14 tolled the statute of limitations for a period of 564 days.

15 In 2007, Fieger and Johnson were indicted by a federal grand jury for criminal
16 violations of the Act in connection with \$127,000 in conduit contributions to the Edwards
17 Committee, the vast majority of which came from the Firm's corporate funds. During the
18 criminal trial in May 2008, Counsel for Fieger and Johnson argued their clients had

¹ Plaintiffs represented by the Firm subsequently filed litigation against DOJ and the Commission in multiple federal district court actions that sought to block the criminal investigation until the conclusion of the Commission's civil enforcement proceedings. Each of these lawsuits, brought in different federal circuits, has resulted in judgments for DOJ and the Commission. See *Beam v. Gonzalez*, No. 07-CV-1227 (N.D. Ill. filed March 2, 2007); *Marcus v. Mukasey*, No. 3:07-CV-00398 (D. Ariz. March 10, 2008), *appeal docketed*, No. 08-15643 (9th Cir. March 18, 2008); *Bialek v. Gonzalez*, No. 07-1284 (10th Cir. June 24, 2008); *Fieger v. FEC*, 2:08-CV-14125 (E.D. Mich. filed Sept. 25, 2008); *Fieger v. Gonzalez*, No. 07-2291 (6th Cir. Nov. 12, 2008).

1 caused the Firm to use corporate funds to reimburse contributions to the Edwards
2 Committee, and that Fieger had reimbursed additional contributions to the Edwards
3 Committee with his personal funds, but that both Fieger and Johnson lacked knowledge
4 that there was anything illegal about reimbursing federal political contributions. Fieger
5 gave testimony at the criminal trial consistent with this defense. Johnson did not testify
6 at the criminal trial. The criminal prosecution – which required proof of knowing and
7 willful conduct beyond a reasonable doubt – ended with the acquittal of both Fieger and
8 Johnson. *United States v. Fieger*, No. 07-20414, 2008 WL 996401 (E.D. Mich. June 2,
9 2008).²

10 Upon conclusion of the criminal proceedings, the Commission again requested a
11 response to its 2006 RTB findings. Letters from Audra L. Wassom, Federal Election
12 Commission to Eric W. Bloom, Winston & Strawn LLP (June 27, 2008); Vernon Johnson
13 (June 27, 2008); Geoffrey Nels Fieger (June 27, 2008); and Fieger, Fieger, Kenney,
14 Johnson & Giroux, P.C. (June 27, 2008). Respondents notified the Commission that 1)
15 they considered Fieger's and Johnson's acquittals to establish that there was no violation
16 of the Act; 2) they would claim a Fifth Amendment privilege in response to any effort by
17 the Commission to seek additional information;³ and 3)

18 _____ See Letter from Michael R. Dezsi,

² All references to trial transcripts refer to testimony given during these proceedings.

³ While the privilege against self-incrimination would seem to be unavailable following Fieger's and Johnson's acquittal in the criminal trial, Respondents may have a legitimate fear of possible criminal jeopardy on charges for which there is no res judicata, such as perjury by Fieger in the criminal trial or by Fieger and Johnson in connection with statements made in response to the Commission's investigation.

1 Fieger, Fieger, Kenney, Johnson & Giroux, P.C. to Audra L. Wassom, Federal Election
2 Commission (July 1, 2008).

3 The evidence and testimony presented at the criminal trial (particularly Fieger's
4 own testimony) shows that between March 2003 and January 2004, the Firm reimbursed
5 its employees and vendors for \$113,000 in contributions (55 contributions of the
6 maximum \$2,000 and two contributions of \$1,500) that they, their spouses, and in some
7 cases other relatives (including parents and children) made to the Edwards Committee.
8 See Chart at Attachment 1. Between September 2003 and January 2004, Fieger also used
9 personal funds to reimburse another \$18,000 in contributions made to the Edwards
10 Committee by family members of vendors to the Firm (nine contributions of the
11 maximum \$2,000). See Chart at Attachment 2. These facts are undisputed and establish
12 violations of 2 U.S.C. §§ 441b and 441f for the contributions reimbursed with Firm funds
13 and violations of 2 U.S.C. §§ 441a and 441f for the contributions reimbursed with
14 Fieger's personal funds.

15 Notwithstanding Fieger's and Johnson's acquittal in the criminal case, there is
16 persuasive evidence that Respondents knowingly and willfully violated the Act. See *One*
17 *Lot Emerald Cut Stones and One Ring v. U.S.*, 409 U.S. 232, 235 (1972) (stating that
18 because a criminal trial has a greater burden of proof, acquittal in a criminal proceeding
19 does not preclude a factual matter from being relitigated in a later civil proceeding as the
20 criminal acquittal "does not constitute an adjudication on preponderance-of-the-evidence
21 burden applicable in civil proceedings."). Further, this evidence is augmented by the

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1 negative inference that the Commission, as well as a federal district court, is allowed to
2 draw where Respondents assert their Fifth Amendment right rather than provide material
3 information in connection with a civil enforcement investigation. Accordingly, the
4 Office of General Counsel is prepared to recommend that the Commission find probable
5 cause to believe that Fieger, Fieger, Kenney, Johnson and Giroux, P.C.; Geoffrey Nels
6 Fieger; and Vernon Johnson knowingly and willfully violated 2 U.S.C. §§ 441b and 441f,
7 and, further, that Geoffrey Nels Fieger knowingly and willfully violated 2 U.S.C. §§ 441a
8 and 441f.

9 **II. SUMMARY OF THE RECORD**

10 **A. Background**

11 The Firm has approximately 50 employees, including 16 attorneys.⁴ The Firm
12 handles plaintiff-side litigation in a variety of fields, including: auto negligence, civil
13 rights, slip & fall, premises liability, products liability, workers' compensation,
14 intentional torts/general negligence, and employment discrimination/harassment, among
15 others. See <http://www.fiegerlaw.com>.

16 Geoffrey Nels Fieger is the senior partner in, and the corporate President of, the
17 Firm. Fieger graduated from the University of Michigan (B.A., 1974; M.A., 1976) and
18 Michigan State University's Detroit College of Law (J.D., 1979). *Id.* He is admitted to
19 practice law in Michigan and Florida. *Id.* He joined the Firm in 1979. *Id.* Fieger has
20 significant political fundraising experience and ran for Governor of Michigan in 1998 as

⁴ Two of the Firm's named partners, Bernard Fieger (father of Geoffrey Fieger), and Jeremiah Kenney ("Kenney") are deceased, and one of the named partners, Robert Giroux, did not become a partner until after the events in question.

1 the Democratic Party's nominee. *Id.* Fieger has been politically active in making
2 political contributions in federal, state, and local elections, including \$23,450 in federal
3 contributions since the 1998 election cycle.

4 Vernon (a/k/a Ven) Johnson is a partner in, and the corporate Secretary/Treasurer
5 of, the Firm. Johnson graduated from Kalamazoo College (B.A., 1983) and The
6 University of Detroit School of Law (J.D., 1986). *Id.* He is admitted to practice law in
7 Michigan. *Id.* He joined the Firm in 2001 after interning for a Michigan State Court of
8 Appeals judge and working at two other Michigan law firms. *Id.* Johnson has been
9 politically active in making political contributions in federal, state, and local elections,
10 including \$35,350 in federal contributions since the 1998 election cycle.

11 Firm employees who allowed their names, as well as the names of their spouses
12 and children, to be used to make conduit contributions to the Edwards Committee
13 include: Joseph Bird, Jill Brandana, Paul W. Broschay, Jeffrey Cope, Jeffrey Danzig,
14 Nancy Fisher, Robert Giroux, James Harrington, Stephen Hnat, Anna Huhta, Lloyd
15 Johnson, Ann Marie Keith, Arnold Matusz, William McHenry, Tammy Reiss,
16 Michaelene Sowinski, Victor Valenti, Rebecca Walsh, and Todd Weglarz. *See* MUR
17 5818 Factual and Legal Analyses.

18 **B. Reimbursement of Contributions to the Edwards Committee**

19 Fieger testified that he first met John Edwards in February 2003 at a fundraiser
20 hosted by another trial attorney. Trial Transcript, volume 23, 43-45, May 20, 2008,
21 *United States v. Fieger*, No. 07-20414, 2008 WL 996401 (E.D. Mich. June 2, 2008.) In

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1 March 2003, the Edwards Committee suggested that the candidate visit the Firm, which
2 Fieger understood to be a fundraising opportunity for the campaign, as well as the start of
3 Fieger's fundraising efforts for the Committee. *Id.* The Committee's campaign manager,
4 Nicholas Baldick, testified that the Committee viewed Fieger, an experienced political
5 fundraiser, as someone who could meet high fundraising goals for the first quarter of
6 2003 to establish the campaign's viability. (Trial Tr., vol. 13, 135, May 2, 2008.)

7 Beginning in March 2003, Respondents solicited the maximum \$2,000
8 contribution to the Edwards Committee from both attorney and non-attorney Firm
9 employees. *See* Trial Ex. 42 (Memorandum from Geoffrey Fieger, et al., on Sen. John
10 Edwards Campaign Contribution to All Attorneys (March 24, 2003)), *United States v.*
11 *Fieger*, No. 07-20414, 208 WL 996401 (E.D. Mich. June 2, 2008). When employees
12 expressed hesitation with regard to giving \$2,000, Fieger or Johnson assured them that
13 the Firm would "take care of it" or that a bonus would be forthcoming. *See, e.g.,* (Trial
14 Tr. vol. 8, 11-12, April 24, 2008) (testimony of James Harrington, Firm associate); (Trial
15 Tr. vol. unmarked, 51-52, April 29, 2008) (testimony of Tania Rock, Firm paralegal). As
16 a result of these solicitations, Firm employees and family members made 20
17 contributions totaling \$40,000 in March 2003, 14 contributions totaling \$28,000 in June
18 2003, five contributions totaling \$10,000 between July and November 2003, and 18
19 contributions totaling \$35,000 in January 2004. *See* Chart 1 at Attachment 1.

20 The Firm reimbursed each employee for the amount of any contribution made by
21 them or their family members within a few days of making the contributions. The

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1 reimbursements made by the Firm are reflected in accounting records that tracked the
2 amount each employee was to receive as a bonus to cover the cost of contributions to the
3 Edwards Committee. *See* Attachment 5 (Trial Ex. 34, *United States v. Fieger*, No. 07-
4 20414, 208 WL 996401 (E.D. Mich. June 2, 2008)). In his criminal trial testimony,
5 Fieger admitted that contributions to the Edwards Committee had been reimbursed with
6 corporate funds between March 2003 and January 2004. (Trial Tr., vol. 23, 65-67, 79,
7 May 20, 2008.) Similarly, Fieger admitted that contributions to the Edwards Committee
8 were reimbursed from his personal funds between September 2003 and January 2004. *Id.*
9 Although Fieger did not specifically testify to the amount of contributions he reimbursed,
10 the Firm's accounting records reflect \$113,000 in reimbursements while Fieger's
11 personal bank account records reflect another \$18,000 in reimbursements. *See* Charts at
12 Attachments 1 and 2.

13 **C. Respondents' Knowledge of Potential Illegality**

14 As more fully discussed in Section III, several factors taken together establish that
15 Respondents had knowledge that the reimbursement scheme was potentially illegal.
16 First, Respondents' extensive political experience, which includes Fieger's 1998
17 gubernatorial bid and fundraising for political and judicial candidates, suggests they
18 would be familiar with both state and federal campaign finance laws, including any
19 applicable contribution limits. (Trial Tr. vol. 23, 69, May 21, 2008) (Fieger testimony).
20 Second, the Edwards Committee provided Respondents with information about campaign
21 fundraising limits and prohibitions including individual donor cards that warned against

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1 reimbursements. *See* Attachment 3. In May 2003, the Edwards Committee sent
2 Respondents a reminder of these restrictions after another of its fundraisers, an Arkansas
3 attorney named Tab Turner, was reported to be under criminal investigation for
4 developing a reimbursement scheme similar to the one used by Respondents. (Trial Tr.
5 vol. 13, 139-43, May 2, 2008) (Baldick testimony). *See also* Letter from Ed Turlington,
6 General Chair, Edwards for President, to First Quarter Fundraising Team (May 1, 2003).
7 The Committee also sent letters to more accurately verify the eligibility of contributors
8 and held teleconferences with fundraisers to brief them on the legal issues involved with
9 fundraising. (Trial Tr. vol. 14, 15-16, 21, May 5, 2008) (Baldick testimony). Third,
10 various conduits expressed concern to both Fieger and Johnson that the reimbursement
11 scheme violated federal campaign finance laws. *See infra* Section III.B.2. Finally,
12 Respondents' knowledge can be inferred from their attempts to conceal the
13 reimbursements. *See infra* Section III.B.3.

14 III. LEGAL ANALYSIS

15 The evidence shows that Respondents knowingly and willfully made and/or
16 consented to corporate contributions in violation of 2 U.S.C. § 441b and made and/or
17 assisted in contributions made in the name of another in violation of 2 U.S.C. § 441f.
18 There is no dispute that Fieger and Johnson caused the Firm to make contributions in the
19 names of others by reimbursing \$113,000 in contributions to the Edwards Committee
20 with corporate funds, and that Fieger used personal funds to reimburse an additional
21 \$18,000 in further violation of the individual contribution limits under 2 U.S.C. § 441a.

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1 At the criminal trial, counsel argued that Fieger and Johnson failed to appreciate
2 that their actions were illegal, and thus did not act in a knowing and willful manner
3 required to prove a criminal violation. In response to this Office's efforts to obtain more
4 information about their alleged state of mind, Respondents have asserted the Fifth
5 Amendment. As explained below, however, the undisputed facts of this matter are
6 sufficient to find probable cause to believe that Respondents knowingly and willfully
7 violated the Act. Further, the Commission also is entitled to draw an adverse inference
8 from Respondents' refusal to provide information regarding whether they acted in a
9 knowing and willful manner.

10 **A. Respondents Violated 2 U.S.C. §§ 441a, 441b, and 441f**

11 The Act prohibits corporations from making contributions or expenditures from
12 their general treasury funds in connection with the election of any candidate for federal
13 office, and further prohibits corporate officers from consenting to such contributions. 2
14 U.S.C. § 441b(a). The Act further provides that no person shall make contributions to a
15 candidate for federal office or his authorized political committee, which in the aggregate
16 exceed a combined \$2,000. 2 U.S.C. § 441a(a)(1)(A).

17 Under the Act, no person shall make a contribution in the name of another person
18 or knowingly permit his or her name to be used to effect such a contribution. 2 U.S.C. §
19 441f. Commission regulations provide that an example of making or contributing in the
20 name of another includes:

21 (i) giving money or anything of value, all or part of which
22 was provided to the contributor by another person (the

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1 true contributor) without disclosing the source of money
2 or the thing of value to the recipient candidate or
3 committee at the time the contribution is made, or
4

5 (ii) making a contribution of money or anything of value
6 and attributing as the source of the money or thing of
7 value another person when in fact the contributor is the
8 source.

9 11 C.F.R. § 110.4(b)(2)(i)-(ii). Further, Commission regulations provide that no person
10 shall assist in making a contribution in the name of another. 11 C.F.R. § 110.4(b)(iii).

11 Between March 2003 and January 2004, Respondents made \$131,000 in
12 contributions in the name of another by reimbursing campaign contributions nominally
13 made in the name of conduit donors in violation of 2 U.S.C. § 441f. Further, the
14 investigation and evidence produced at the criminal trial establish that Fieger and
15 Johnson consented to the use of \$113,000 of corporate funds to reimburse 55
16 contributions in violation of 2 U.S.C. § 441b, representing the majority of the \$131,000
17 in contributions that Respondents reimbursed. Finally, because Fieger already had
18 contributed the individual maximum statutory amount to the Edwards Committee, his
19 reimbursement of \$18,000 in contributions from personal funds resulted in an excessive
20 contribution in violation of the individual contribution limits under 2 U.S.C. §
21 441a(a)(1)(A).

22 Accordingly, the General Counsel is prepared to recommend that there is probable
23 cause to believe that Respondents violated 2 U.S.C. §§ 441a, 441b, and 441f. In addition,
24 as discussed below, the General Counsel is prepared to recommend that there is probable
25 cause to believe that Respondents' violations were knowing and willful.

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**B. Respondents Knowingly and Willfully Violated
2 U.S.C. §§ 441a, 441b and 441f**

The phrase "knowing and willful" indicates that "acts were committed with a knowledge of all the relevant facts and a recognition that the action is prohibited by law...." H.R. Rpt. 94-917 at 3-4 (Mar. 17, 1976) (*reprinted in Legislative History of Federal Election Campaign Act Amendments of 1976 at 803-04 (Aug. 1977)*); *see also National Right to Work Comm. v. FEC*, 716 F.2d 1401, 1403 (D.C. Cir. 1983) (citing *AFL-CIO v. FEC*, 628 F.2d 97, 98, 101 (D.C. Cir. 1980) for the proposition that "knowing and willful" means "'defiance' or 'knowing, conscious, and deliberate flaunting' [sic] of the Act"); *United States v. Hopkins*, 916 F.2d 207, 214-15 (5th Cir. 1990).

The *Hopkins* court also held that taking steps to disguise the source of funds used in illegal activities might reasonably be explained as a "motivation to evade lawful obligations." *Hopkins*, 916 F.2d at 213-14 (citing *Ingram v. United States*, 360 U.S. 672, 679 (1959)) (internal quotations omitted). A Section 441f violation, in which the true source of the funds used to make a contribution is withheld from the recipient committee, is inherently self-concealing.

In the present matter, testimony at the criminal trial establishes that Respondents had knowledge of the prohibition against conduit and corporate contributions. First, Respondents were experienced political contributors and fundraisers. Second, Respondents received information from various Committee sources that warned against reimbursements. Third, several conduits expressed concern that the reimbursement

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1 scheme was illegal. Fourth, the available information establishes that Respondents
2 willfully attempted to conceal their conduct. Finally, Respondents refused to respond to
3 inquiries for information regarding their purported lack of knowledge by asserting their
4 Fifth Amendment privilege, which entitles the Commission to draw an adverse inference
5 consistent with other evidence.

6 1. Edwards Committee Materials on Illegal Contributions

7 Respondents, like all volunteer fundraisers for the Edwards Committee, received a
8 legal briefing that included a binder and, later, a set of guidelines that contained FEC
9 rules, talking points, and donor cards that informed contributors about prohibitions
10 against reimbursements and the requirement that donors use personal funds to contribute.
11 (Trial Tr. vol. 13, 137-39, May 2, 2008) (Baldick testimony). The donor card, which was
12 to be completed by each contributor, explicitly noted that,

13 *Contributions to Edwards for President are limited to \$2,000*
14 *per individual and \$4,000 per couple. . . .*

15

16
17
18 *. . . All contributions must be made from personal funds*
19 *and may not be reimbursed or paid by any other person.*
20

21 See Attachment 3. At the criminal trial, Fieger testified that he had never reviewed the
22 briefing materials, such as the donor cards, that the Firm had received from the Edwards
23 Committee. (Trial Tr. vol. 23, 12, May 21, 2008.) While Johnson did not testify at the
24 criminal trial, there is a donor card which contains the language described above and
25 what appears to be his signature. See Attachment 4.

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1 In April 2003, there were widely publicized news reports about a criminal
2 investigation into allegations that another Edwards Committee fundraiser, Arkansas
3 attorney Tab Turner, had violated the Act by reimbursing contributions made by his law
4 firm's employees. As discussed below, a Firm employee brought these allegations to
5 Fieger's attention. See Humphrey Testimony, *infra* Section III.B.2. In late April and
6 early May, in response to news stories about Mr. Turner's conduit contribution scheme,
7 the Edwards Committee sent all of its fundraisers, including Respondents, a legal
8 memorandum reminding them of the prohibition against the reimbursement of
9 contributions. (Trial Tr. vol. 13, 137-45, May 2, 2008) (Baldick testimony). At the
10 criminal trial, Fieger acknowledged that, at some point, he became aware of the
11 allegations as to Mr. Turner, but is unsure when this occurred. (Trial Tr., vol. 23, 68,
12 May 20, 2008.) Fieger further testified that he had not reviewed this memorandum
13 provided by the Edwards Committee until the trial. (Trial Tr., vol. 23, 10-12, May 21,
14 2008.) It is unknown as to whether or not Johnson would acknowledge seeing the
15 reminder from the Edwards Committee.

16 2. Conduit Warnings as to Possible Illegality

17 Respondents encountered resistance to the reimbursement scheme by current and
18 former employees who recognized and expressed concern that the promise to reimburse
19 contributions violated the law.

- 20 • Concerns about Fieger's fundraising methods pre-date the current
21 investigation of conduit contributions to the Edwards Committee. In
22 2000, after being asked to contribute a total of \$10,300 to state judicial
23 candidates, Todd Weglarz, an associate, drafted a legal memorandum to

1 Fieger that questioned whether his promise to reimburse employees for
2 their contributions violated state campaign finance laws. See
3 Memorandum from Todd Weglarz on Michigan Campaign Finance Act
4 (Oct. 30, 2000) ("Weglarz Memo") (concluding "Should there ever be any
5 type of investigation into these contributions, I am greatly concerned
6 about the effect it may have on my ability to maintain a license to practice
7 law."). The memo was brought to Fieger's attention again in 2003. (Trial
8 Tr. vol. 15, 35-45, May 6, 2008.)

- 9
- 10 • In 2003, Eric Humphrey, a former State Police Officer working at the
11 Firm, told Fieger that he would not contribute to the Edwards Committee
12 because he believed reimbursements violated Federal campaign finance
13 laws and even testified that he provided Fieger with research about similar
14 reimbursement schemes then under investigation. (Trial Tr. vol. 16, 20,
15 May 7, 2008.)
 - 16 • Tania Rock, who was responsible for collecting contributions from the
17 employees that Fieger and Johnson had solicited, testified that her co-
18 workers had been reluctant to contribute because of the reimbursement
19 scheme but that Fieger reassured them that they were permissible. (Trial
20 Tr. vol. 13, 76-77, May 2, 2008.)
21
22

23 Further, Fieger acknowledged that at the time he reimbursed contributions, he was
24 aware of both 2 U.S.C. § 441f, which prohibits contributions in the name of another, and
25 2 U.S.C. § 441b, which prohibits corporate contributions. (Trial Tr., vol. 23, 47-53, May
26 20, 2008.) Fieger testified that because he did not see the word "reimbursement" in
27 Section 441f, he did not think what he was doing would constitute making a contribution
28 in the name of another.⁵ *Id.* Similarly, Fieger testified that he did not consider his
29 professional corporation to be the type of entity whose treasury funds could not be used
30 for corporate contributions under Section 441b. *Id.* at 77-79. Both Fieger and Johnson

⁵ Fieger testified that he, and possibly also Johnson, went separately to the Firm's law library to research the restrictions that might apply to reimbursing campaign contributions. (Trial Tr., vol. 23, 41-62, May 20, 2008.) However, his research was limited to looking at the "Headnotes" in the West Reporter System for the Court of Appeals for the Sixth Circuit and he made no effort to look at cases in other federal appeals courts. *Id.*

1 asserted their Fifth Amendment privilege in this matter, which prevented this Office from
2 obtaining answers to questions as to their state of mind after receiving their warnings
3 from conduits.

4 3. Respondents Concealed the Reimbursements

5 In an attempt to disguise their activities, Respondents maintained two sets of
6 financial records for the Firm. One set of records kept track of employees that received
7 unspecified bonuses while another private, internal list labeled the bonuses as campaign
8 contributions. (Trial Tr. vol. 23, 67, May 20, 2008) (Fieger testimony). Testimony
9 revealed that the internal set of records contained handwritten notations that labeled
10 certain bonuses, "minus camp." (Trial Tr. vol. 12, 95-96, April 30, 2008) (Rock
11 testimony). Tania Rock, who collected the contributions from employees, testified that
12 this notation meant that the bonus recipient had made a contribution to the Edwards
13 Committee. (Trial Tr. vol. unmarked, 40-42, May 29, 2008.) By comparison, the Firm
14 gave its bookkeepers a second set of records that labeled the contributions as "special
15 bonuses." (Trial Tr. vol. 20, 35-62, May 15, 2008.) Contrary to Fieger's testimony that
16 the Firm's accounting records were entirely accessible, other trial witnesses revealed that
17 financial records were not readily available to Firm employees much less government
18 regulators or law enforcement. (Trial Tr. vol. 23, 66-67, May 20, 2008) (Fieger
19 testimony stating "And [the accounting records] list[] exactly what it lists. We're not
20 trying to hide anything. It's all over our books."). In fact, the Firm only disclosed its
21 financial records to DOJ and the Commission because subpoenas were issued.

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1 Fieger continued attempts to conceal the reimbursements after questions about
2 their legality were raised publicly. Fieger first denied making the reimbursements that he
3 now admits after a news story appeared with the allegation that Joseph Bird, a former
4 attorney with the Firm, claimed that he contributed two \$2,000 checks and received a
5 reimbursement check for \$4,000 two days later. See Sarah Karush, *Lawyer Says Fieger*
6 *Partner Told Him to Contribute to Edwards Campaign*, DETROIT NEWS, Dec. 3, 2005.
7 Although Respondents tried to discredit Mr. Bird as "mentally ill," Fieger later
8 acknowledged that he gave bonuses to so-called "civic-minded employees," and that he
9 expected a grand jury indictment based on those bonuses. Joe Swickard, *Fieger: I*
10 *Expect to be Indicted*, DETROIT FREE PRESS, Jan. 17, 2006.

11 Similarly, following news stories about the execution of a search warrant at the
12 Firm's office, Fieger appeared on two different local Detroit radio talk shows on
13 December 2, 2005, during which he unequivocally denied that there had been any
14 reimbursements:

15 12/2/2005 Interview with Frank Beckman in the morning:

16 Frank Beckman: Geoffrey, did you reimburse any of those attorneys
17 for their donations through ? That's the question.

18
19 Geoffrey Fieger: There's no – There's no allegation that I
20 reimbursed anybody.

21
22 Frank Beckman: Well that's the investigation though.

23
24 Geoffrey Fieger: No it's not. There's no allegation that Geoff
25 Fieger reimbursed anybody. Nobody got reimbursed.
26 There no allegation of that. None whatsoever.
27

1 See Trial Ex. 192c, *United States v. Fieger*, No. 07-20414, 208 WL 996401 (E.D. Mich.
2 June 2, 2008).

3
4 **12/2/2005 Interview with Mitch Albom in the afternoon:**

5
6 **Mitch Albom:** Ah, you were, you're being charged with funneling
7 money . . .

8
9 **Geoffrey Fieger:** I'm worried about . . . I'm not being charged with anything.

10
11 **Mitch Albom:** All right, you b', yeah fair

12
13 **Geoffrey Fieger:** Please stop it.

14
15 **Mitch Albom:** Fair enough, you're not charged with anything.
16 The, the rumors that are flying around here, the
17 things that are being written are that you, you
18 were involved in funneling money to – through
19 -other- your money through other people,
20 other, uh, channels to John Edwards. Did you do that?

21
22 **Geoffrey Fieger:** No, absolute – that's that's just absurd, I don't need to
23 to do it. Certainly not thirty-five thousand dollars,
24 he doesn't need it, thirty-five thousand dollars.
25 That's just utter and complete nonsense.
26

27 See Trial Ex. 193b, *United States v. Fieger*, No. 07-20414, 208 WL 996401 (E.D. Mich.
28 June 2, 2008).

29 According to witnesses, after becoming aware of the criminal investigation,
30 Fieger made several attempts to influence the testimony that potential witnesses might
31 give to the government investigators. For example, Todd Weglarz, who had drafted a
32 memorandum in 2000 about the illegality of reimbursing state political contributions,
33 testified that Fieger called a meeting to "coach" the testimony of those employees who
34 were to be called before the grand jury. (Trial Tr. vol. 14, 27, May 5, 2008.) Similarly,

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1 Wendsy Von Buskirk, who prepared the Firm's newsletter, testified at the criminal trial
2 that Fieger had called her to warn about FBI subpoenas and that she was under the
3 impression that she was supposed to tell the grand jury that it was her idea, rather than
4 Fieger's, to contribute to the Edwards Committee. (Trial Tr. vol. 17, 98-115, May 12,
5 2008.) Shant Gharibian, Fieger's former personal trainer, also testified at the criminal
6 trial that he received instructions from Fieger to withhold information from the FBI about
7 the reimbursements. (Trial Tr. vol. 19, 35-36, May 14, 2008.) Gharibian, however, had
8 already spoken with the FBI and had given a false statement that it was his idea to
9 contribute to the campaign and that the money Fieger gave him was a holiday bonus.
10 (Trial Tr. vol. 19, 38, May 14, 2008.) He further testified that Fieger was angered when
11 he later revealed that he had already spoken to the FBI, but that Fieger encouraged him to
12 continue with his statement that he personally initiated the contribution. (Trial Tr. vol.
13 19, 40-41, May 12, 2008.)

14 4. Fifth Amendment Privilege and Available
15 Evidence Supports Adverse Inference
16

17 Although the evidence described above establishes that Respondents acted in a
18 knowing and willful manner, the Office of General Counsel sought further information as
19 to Fieger's and Johnson's state of mind. Rather than provide the requested information,
20 Respondents asserted their Fifth Amendment privilege against self-incrimination. While
21 the Fifth Amendment can be asserted without penalty or prejudice in criminal
22 proceedings, the same is not true when raised to withhold relevant, and possibility
23 incriminating, information in a civil proceeding.

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1 The Commission is entitled to draw an adverse inference from the refusal to
2 testify, *see Chariot Plastics, Inc. v. United States*, 28 F. Supp. 2d 874, 877 n.1 (S.D.N.Y.
3 1998); *Brinks v. City of New York*, 717 F. 2d 700, 709 (2nd Cir. 1983), because "when a
4 party has relevant evidence within his control which he fails to produce, that failure gives
5 rise to an inference that the evidence is unfavorable to him." *International Union (UAW)*
6 *v. NLRB*, 459 F.2d 1329, 1336 (D.C. Cir. 1972); *see also Arvin-Edison Water Storage*
7 *Dist. v. Hodel*, 610 F. Supp. 1206, 1218 n.41 (D.D.C. 1985). The theory behind this rule
8 is that, all things being equal, "a party will of his own volition introduce the strongest
9 evidence available to prove his case." *International Union (UAW)*, 459 F.2d at 1338. If
10 the party fails to introduce such evidence, it may be inferred that the evidence was
11 withheld because it contravened the position of the party suppressing it. *Id.* Thus, when
12 a party unreasonably resists a subpoena for relevant testimony or documents, it can be
13 inferred that the refusal to comply with the subpoena indicates that the evidence or
14 testimony would be adverse to the party's position.⁶ *See id.* at 1338-39. Courts have
15 permitted the adverse inference to be drawn when it is given no more evidentiary value
16 than warranted by the other evidence in the case. *See Leftkowitz v. Cunningham*, 431 U.S.
17 801 (1977) and *SEC v. Tome*, 638 F. Supp. 629, 631-32 (S.D.N.Y. 1986); *see also United*
18 *States v. Premises Located at Route 13*, 946 F.2d 749, 756 (11th Cir. 1991).

⁶ The idea that prior testimony in a criminal trial may serve to refute the negative inference in a subsequent proceeding where the privilege is asserted has been rejected. Federal courts have upheld a district court's power to strike (or disregard) prior testimony, whether live or in the form of an affidavit, from witnesses who assert their Fifth Amendment privilege and refuse to answer the government's deposition questions in order to shield their testimony from scrutiny. *See, e.g., U.S. v. Parcels of Land*, 903 F. 2d 36 (1st Cir. 1990); *Lawson v. Murray*, 837 F. 2d 653, 656 (4th Cir.), *cert denied*, 488 U.S. 831 (1988) (To allow a witness to testify and then assert the Fifth Amendment to escape scrutiny would be "a positive invitation to mutilate the truth.").

1 There is no need for an administrative agency to seek enforcement of the
2 subpoena in court before drawing an adverse inference from the resisting party's failure
3 to comply with it. *Id.* Moreover, that individual refusals to testify are premised on Fifth
4 Amendment privileges against self-incrimination does not preclude drawing an adverse
5 inference. *Baxter v. Palmigiano*, 425 U.S. 308, 318 (1976); *see also SEC v. International*
6 *Loan Network, Inc.*, 770 F. Supp. 678, 695-96 (D.D.C. 1991), *aff'd*, 968 F.2d 1304 (D.C.
7 Cir. 1992) (court may draw adverse inference from party's refusal to testify based on
8 Fifth Amendment); *Pagel, Inc. v. SEC*, 803 F.2d 942, 946-47 (8th Cir. 1986) (agency did
9 not err in taking into account adverse inference based on broker-dealer's invocation of
10 Fifth Amendment privilege against self-incrimination).

11 Because Respondents have raised their Fifth Amendment privilege in the present
12 matter, the Commission is entitled to draw an adverse inference consistent with the
13 available evidence from their failure to provide information regarding whether they acted
14 in a knowing and willful manner.

15 IV. CONCLUSION

16 Accordingly, based on the extensive direct evidence developed in this
17 investigation, there is probable cause to believe that Respondents knowingly and willfully
18 violated the Act by making and consenting to prohibited corporate contributions and
19 contributions in the name of others. Moreover, given that Respondents have asserted
20 their Fifth Amendment privilege in response to the Commission's inquiries and
21 subpoenas, it would be appropriate for the Commission to draw an adverse inference

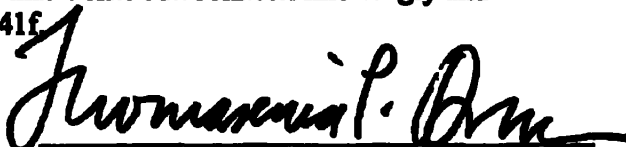
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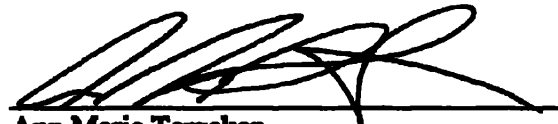
1 from their refusal to testify about their activity. This Office is therefore prepared to
2 recommend that the Commission find probable cause to believe that Fieger, Fieger,
3 Kenney, Johnson and Giroux, P.C., Geoffrey Nels Fieger and Vernon R. Johnson
4 knowingly and willfully violated 2 U.S.C. § 441b and 2 U.S.C. § 441f, and, further, that
5 Geoffrey Nels Fieger knowingly and willfully violated 2 U.S.C. § 441a.

6 **V. GENERAL COUNSEL'S RECOMMENDATION**

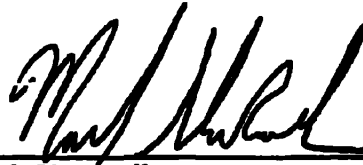
- 7 1. Find probable cause to believe that Fieger, Fieger, Kenney, Johnson and
8 Giroux, P.C. knowingly and willfully violated 2 U.S.C. § 441b.
9 2. Find probable cause to believe that Fieger, Fieger, Kenney, Johnson and
10 Giroux, P.C. knowingly and willfully violated 2 U.S.C. § 441f.
11 3. Find probable cause to believe that Geoffrey Nels Fieger knowingly and
12 willfully violated 2 U.S.C. § 441a.
13 4. Find probable cause to believe that Geoffrey Nels Fieger knowingly and
14 willfully violated 2 U.S.C. § 441b.
15 5. Find probable cause to believe that Geoffrey Nels Fieger knowingly and
16 willfully violated 2 U.S.C. § 441f.
17 6. Find probable cause to believe that Vernon R. Johnson knowingly and
18 willfully violated 2 U.S.C. § 441b.
19 7. Find probable cause to believe that Vernon R. Johnson knowingly and
20 willfully violated 2 U.S.C. § 441f.
21
22

June 4, 2009
Date


Thomasenia P. Duncan
General Counsel


Ann Marie Terzaken
Associate General Counsel for Enforcement

29044253238



Mark Shonkwiler
Assistant General Counsel for Enforcement



Phillip A. Olaya
Attorney

Attachments

1. Chart 1: Sections 441b and 441f Violations
2. Chart 2: Section 441f Violations
3. Donor Card
4. Signed Donor Card (Vernon Johnson)
5. Accounting record

29044253239

MUR 5818
Attachment 1
441b and 441f Violations

NAME	CONTRIBUTION DATE	AMOUNT	REIMBURSEMENT DATE	RELATIONSHIP
Barlow, John	1/23/2004	\$2,000	1/20/2004	3rd Party Vendor
Barlow, Martha	1/28/2004	\$2,000		Barlow Spouse
Baulch, Terrance	8/30/2003	\$2,000		Baulch Brother
Baulch, Thomas	8/30/2003	\$2,000	7/3/2003	Current/Former Firm Employee
Beva-Valenti, Rosa	3/31/2003	\$2,000		Valenti Spouse
Bird, Joseph	8/25/2003	\$2,000	7/3/2003	Current/Former Firm Employee
Bird, Laura	8/30/2003	\$2,000		Bird Spouse
Brandana, Jill	8/30/2003	\$2,000	7/3/2003	Current/Former Firm Employee
Brochay, Jessica	7/15/2003	\$2,000		Brochay Daughter
Brochay, Laura	3/31/2003	\$2,000		Brochay Spouse
Brochay, Paul M	7/15/2003	\$2,000		Brochay Son
Brochay, Paul W	3/31/2003	\$2,000	3/31/2003 7/3/2003	Current/Former Firm Employee
Cope, Jeffrey	1/23/2004	\$2,000	1/22/2004	Current/Former Firm Employee
Cuiberson, Mary	8/30/2003	\$2,000		Brandana Mother
Danzig, Jeffrey	3/31/2003	\$2,000	3/31/2003	Current/Former Firm Employee
Danzig, Wendy	3/31/2003	\$2,000		Danzig Spouse
Donahue, Eric	8/30/2003	\$2,000	7/3/2003	Current/Former Firm Employee
Fieger, Geoffrey	3/31/2003	\$2,000	10/15/2003	Current/Former Firm Employee
Fieger, June	11/11/2003	\$2,000		Fieger Mother
Fincher, Marcie	1/23/2004	\$2,000		Fincher Spouse
Fincher, Richard	1/23/2004	\$2,000	1/20/2004	3rd Party Vendor
Fisher, Nancy	8/30/2003	\$2,000	7/3/2003	Current/Former Firm Employee
Gherblan, Ani	1/28/2004	\$2,000		Gherblan Sister
Gherblan, Shant	1/23/2004	\$2,000	1/20/2004	3rd Party Vendor
Giroux, Robert	3/31/2003	\$2,000	3/31/2003	Current/Former Firm Employee
Giroux, Sherry	3/31/2003	\$2,000		Giroux Spouse
* Girvan, Daniel	1/20/2004	\$2,000	1/18/2004	3rd Party Vendor
* Girvan, Shelley	1/20/2004	\$2,000		Girvan Spouse
Harrington, James	3/31/2003	\$2,000	3/31/2003	Current/Former Firm Employee
Hnat, Anthony	1/21/2004	\$2,000		Hnat Son
Hnat, Stephen	1/23/2004	\$2,000	1/22/2004	Current/Former Firm Employee
Huhta, Anna	3/31/2003	\$2,000	3/31/2003	Current/Former Firm Employee
Johnson, Chad	8/30/2003	\$2,000		Lloyd Johnson Son
Johnson, Erica	8/30/2003	\$2,000	7/3/2003	Vernon Johnson Daughter
Johnson, Lloyd	3/31/2003	\$2,000	3/31/2003 7/3/2003	Current/Former Firm Employee
Johnson, Sean	8/30/2003	\$2,000		Lloyd Johnson Son
Kelth, Ann Marie	7/15/2003	\$2,000	7/3/2003	Current/Former Firm Employee
Kerney, Erin	8/30/2003	\$2,000	7/3/2003	Jeremiah Kerney Daughter
Kerney, Matthew	8/30/2003	\$2,000	7/3/2003	Jeremiah Kerney Son
Matusz, Arnold	3/31/2003	\$2,000	3/31/2003	Current/Former Firm Employee
Matusz, Darlene	3/31/2003	\$2,000		Matusz Spouse
McHenry, Molly	3/31/2003	\$2,000		McHenry Spouse
McHenry, William	3/31/2003	\$2,000	3/31/2003	Current/Former Firm Employee
Oliver, Margaret Sue	1/23/2004	\$2,000	1/20/2004	3rd Party Vendor
Ross, Tammy	3/31/2003	\$2,000	3/31/2003	Current/Former Firm Employee
Sandner, Shayne	1/23/2004	\$2,000		Sandner Spouse
Sandner, Sue Ellen	1/23/2004	\$2,000	1/22/2004	Current/Former Firm Employee
Santoli, Theresa	3/31/2003	\$2,000		Lloyd Johnson Spouse

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MUR 5818
Attachment 1
441b and 441f Violations

NAME	CONTRIBUTION DATE	AMOUNT	REIMBURSEMENT DATE	RELATIONSHIP
Sowinski, Jason	6/30/2003	\$2,000		Sowinski Spouse
Sowinski, Michaelene	6/30/2003	\$2,000	7/3/2003	Current/Former Firm Employee
Valenti, Victor	3/31/2003	\$2,000	3/31/2003	Current/Former Firm Employee
Walsh, Rebecca	1/23/2004	\$1,500	1/22/2004	Current/Former Firm Employee
Walsh, Ronald	1/23/2004	\$1,500		Walsh Spouse
Weglarz, Christine	3/31/2003	\$2,000		Weglarz Spouse
Weglarz, Todd	3/31/2003	\$2,000	3/31/2003	Current/Former Firm Employee
White, Wendy	1/20/2004	\$2,000	1/20/2004	3rd Party Vendor
Zanoni, Max	1/23/2004	\$2,000		Oliver Spouse

TOTAL AMT \$113,000

* Reimbursement from Fieger Management Company Building Fund

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MUR 5818
Attachment 2
441f Violations

NAME	CONTRIBUTION DATE	AMOUNT	REIMBURSEMENT DATE	RELATIONSHIP
Bialek, Barry	9/30/2003	\$2,000	10/1/2003	3rd Party Vendor
Bialek, Ceela	9/30/2003	\$2,000		Bialek Daughter
Bialek, Dylan	9/30/2003	\$2,000		Bialek Daughter
Gresdori, Gary	1/28/2004	\$2,000	1/18/2004	3rd Party Vendor
Marcus, Chloe	9/30/2003	\$2,000		Marcus Daughter
Marcus, Constance	9/30/2003	\$2,000		Marcus Spouse
Marcus, Jon	9/30/2003	\$2,000	10/1/2003	Current/Former Firm Employee
Marcus, Mary Ellen	9/30/2003	\$2,000		Marcus Mother
Williams, Linda	9/30/2003	\$2,000		Bialek Spouse
TOTAL AMT		\$18,000		

JOHN EDWARDS

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Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation, and name of employer of individuals whose contributions exceed \$200 per election cycle.

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Occupation _____

Employer _____

Phone (H) _____ (W) _____

E-Mail _____ Fax _____

Event _____ Staff _____

Contact _____

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Name on Card _____ Address _____

Billing Address (if different) _____

Card Number _____ Exp. Date _____

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• By signing below, I affirm that I am making this contribution with my own personal funds, and I am not using funds provided by any other person.

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Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation, and name of employer of individuals making contribution exceed \$200 per election cycle.

Name: p Ven Johnson

Home Address: [REDACTED]

City: Birmingham State: MT Zip Code: 48009

Occupation: Attorney

Employer: Feiger, Feiger, + Schwartz

Phone (H): _____ (W): _____

E-Mail: _____ Fax: _____

Event: _____ Staff: _____

Contact: _____

If you prefer to pay by credit card, please complete the following

Credit Card Type: Visa MasterCard American Express

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Card Number: _____ Exp. Date: _____

Contributor Signature (REQUIRED): p Ven Johnson

Contributor Signature (REQUIRED): _____

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Feiger 0086

NAME	DATE	LAST AMT.	LAST AMT	BONUS	BASE	Y.T.D	BASE	Y.T.D.	Y.T.D.	THIS	
	OF	RAISE	BONUS		2002	2002	2003	2003	MINUS	RAISE/	
	HIRE				YTD 20	12/31/02	07/17/03	06/28/03	CAMP.	BONUS	
Paul	10/99		12/20	7,500		90,000	349,881	90,000	315,802.44	(10,357)	
Jeff	07/02						185,042	120,000	222,291.17	(5,829)	
Arnie	7/99		12/20	7,500		80,000	248,478	80,000	69,494.49	(8,117)	
Bill	1/99	9/99	2,000	12/20	7,500	80,000	401,204	80,000	79,848.94	(8,048)	
Becky	2/95	02/01	10,000	12/20	7,500	80,000	243,242	80,000	89,044.97		
Todd	2/94	02/01	20,000	12/20	7,500	70,000	197,979	80,000	181,080.57	(5,899)	
Bob	1/01		12/20	7,500			301,384	80,000	189,327.82	(8,774)	
Steve		09/01		04/03	2,000		181,189	100,000	83,939.66		
Victor	03/02	06/03	5,000	07/03	5,000	5,000	89,345	80,000	71,693.94	(8,116)	
Lloyd	02/09			07/03	5,000	10,000		80,000	69,494.49	(8,899)	
Jim	08/01			07/03	2,500	4,500		40,000	38,999.54	(3013)	
Joe	08/03			07/03	5,000	5,000		80,000	30,109.69	(4,991)	
Tammy	2/00	10/02	5,000	07/03	5,000	5,000	85,000	125,111	85,000	73,645.82	(2,577)
Mike	01/01	07/03	1,400	07/03	2,500	4,500	31,080	41,277	39,400	34,711.55	(8,188)
Lisa	04/01	07/03	1,400	07/03	2,500	4,500	33,800	41,109	39,400	29,159.29	
Yoki	07/01	06/02	1,500	07/03	2,500	4,500	38,000	41,644	37,500	30,389.15	
Tania	2/98	07/03	1,500	07/03	2,500	4,500	37,500	48,791	40,800	32,089.15	
Mary	8/00	07/03	1,500	07/03	2,500	4,500	37,500	48,280	40,800	31,990.00	
Suey	6/99	07/03	1,500	07/03	2,500	4,500	37,500	39,535	40,580	31,990.00	
Maria	08/03							35,000	1,754.27		
Penny	07/02	07/03	3,000	07/03	250	1,000		9,695	24,000	15,699.26	
Mary Ann	07/02	07/03	1,400	07/03	250	1,000		15,695	38,400	29,399.99	
Laura	04/02	07/03	1,800	07/03	750	1,750		27,519	41,800	29,411.70	
Mary M.	4/01	07/03	1,500	07/03	2,500	4,500	38,000	44,804	41,080	32,282.54	
Sherry	1/01	07/03	1,500	07/03	2,500	4,500	38,000	46,227	41,080	33,890.18	
Shelli	2/01	07/03	1,520	07/03	2,500	4,500	38,500	44,705	39,820	32,305.63	
Toni	2/00	09/02	1,800	07/03	2,500	4,500	39,000	47,912	42,480	39,899.00	
Jim B.	4/97	09/02	1,800	07/03	2,500	4,500	41,500	48,691	44,700	42,695.39	(4,860)
Diane	3/97	09/02	1,800	07/03	2,500	4,500	40,500	45,890	42,700	34,081.88	
Sue	12/98	07/03	1,800	07/03	1,500	3,500	38,000	60,979	43,180	37,316.69	
Sherry	5/94	07/03	1,834	07/03	2,500	4,500	42,540	63,397	47,879	39,379.94	
Nancy	5/97	09/02	1,800	07/03	2,500	4,500	39,000	49,022	42,000	39,099.99	(2,471)
Georina	5/97	09/02	500hr	07/03	1,000	1,750	18,790hr	19,999	19,290hr	19,199.04	
Ann Marie	8/98										

NAME	DATE	LAST AMT.	LAST AMT	BONUS BASE	Y.T.D	BARE	Y.T.D	Y.T.D.	Y.T.D.		
	OF	RANGE	BONUS	AMT	2002	2003	2003	2003	MINUS		
	HIRE				YTD 2002	12/31/02	07/17/03	11/21/03	CAMP.		
Paul	10/99		12/20	7,500	80,000	248,661	80,000	526,086.89	-10,357		
Jeff	07/02					188,042	120,000	274,827.07	-5,829		
Amie	7/99		12/20	7,500	80,000	248,478	80,000	208,843.39	-8,117		
Bill	1/98	6/99	2,000	11/03	10,000	80,000	401,204	80,000	188,485.21	-6,048	
Becky	2/95	02/01	10,000	12/20	7,500	80,000	243,242	80,000	187,977.57		
Todd	2/94	02/01	20,000	12/20	7,500	70,000	187,879	80,000	201,940.01	-5,892	
Bob	1/01			12/02	800	800	301,384	80,000	287,588.23	-5,774	
Steve	01/95	06/01		11/03	5,000	5,000	181,188	100,000	111,713.82		
Victor	03/02	05/03	5,000	11/03	10,000	15,000	88,395	80,000	102,489.86	(6,118)	
Lloyd	02/03			11/03	10,000	20,000		80,000	89,189.84	(8,888)	
Jim	05/01			11/03	5,000	9,500		40,000	40,887.38	(3,013)	
Joe	06/03			11/03	10,000	15,000		80,000	80,889.82	(4,331)	
Tammy	2/00	10/02	5,000	11/03	10,000	15,000	88,000	128,111	88,000	105,888.82	-2,977
Mick	01/01	07/03	1,400	11/03	2,800	7,000	31,000	41,277	38,400	45,883.48	-5,188
Lisa	04/01	07/03	1,400	11/03	2,800	7,000	33,800	41,108	38,400	40,888.23	
Yvett	07/01	08/03	1,800	11/03	800	5,000	38,000	41,844	38,000	39,891.86	
Tania	2/98	07/03	1,500	11/03	2,800	7,000	37,800	46,761	40,800	43,888.16	
Mary	8/00	07/03	1,800	11/03	2,800	7,000	37,800	45,280	40,800	43,480.00	
Suey	8/99	07/03	1,800	11/03	2,800	7,000	37,800	38,895	40,800	43,480.00	
Danlee	08/08			11/03	800	800		38,000	8,800.00		
Marie	08/03			11/03	700	700		38,000	12,888.84		
Penny	07/02	07/03	3,000	11/03	500	1,500		8,885	24,000	21,724.78	
Mary Ann	07/02	07/03	1,400	07/03	280	1,000		15,888	38,400	33,888.88	
Laura	04/02	07/03	1,600	11/03	800	2,250		27,519	41,800	39,481.70	
Mary M.	4/01	07/03	1,800	11/03	2,800	7,000	38,000	44,804	41,080	44,232.64	
Stanley	1/01	07/03	1,800	11/03	2,800	7,000	38,000	46,227	41,080	48,131.88	
Shelli	2/01	07/03	1,800	11/03	1,000	5,800	38,000	44,705	38,800	42,823.38	
Toni	2/00	08/03	1,800	11/03	1,000	5,500	38,000	47,812	44,000	44,882.45	
Jim B.	4/97	08/03	1,700	11/03	12,500	7,000	41,800	48,601	48,000	68,782.34	-4,880
Diane	3/97	08/03	1,800	11/03	700	5,200	40,000	48,600	44,800	45,648.85	
Sue	12/99	07/03	1,800	11/03	800	4,000	38,000	50,675	48,100	48,888.88	
Sherry	8/94	07/03	1,834	11/03	2,800	7,000	42,840	53,307	47,878	48,882.80	
Nancy	8/97	08/03	6,000	11/03	2,800	7,000	38,000	48,022	48,000	48,438.87	-2,471
Georgia	8/97	08/02	8,								